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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,807	02/13/2002	Peter G. Morcos	60001.0087USC1	1075

7590 01/13/2005

Attention: Leonard J. Hope
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

EXAMINER

NGUYEN, CAO H

ART UNIT	PAPER NUMBER
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2173

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/075,807

Applicant(s)

MORCOS ET AL.

Examiner

Cao (Kevin) Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-29 are rejected under the judicially created doctrine of double patenting over claims 1-21 of U. S. Patent No. 6,384,849 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: discloses a computer-readable medium having a plurality of data fields stored on the medium and representing a data structure comprising a first data field containing data representing a command bar; a second data field containing data representing a plurality of controls included in the command bar, the controls being chosen from a group including simple menu items and interactive controls; a third data field containing data representing the display state of the command bar.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See also MPEP § 804.01 (b).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solimene et al. (US Patent No. 5,828,376) in view of Gram (US Patent No. 5,760,768).

Regarding claims 1 and , Solimene et al. discloses a computer-readable medium having a plurality of data fields stored on the medium and representing a data structure comprising a first data field containing data representing a command bar (see col 5, lines 16-51 and figure 2A); a second data field containing data representing a plurality of controls included in the command bar, the controls being chosen from a group including simple menu items and interactive controls (see col 6, line 46-65 and figures 3A-3D); however, Solimene fails to explicitly teach a third data field containing data representing the display state of the command bar.

Gram teaches a third data field containing data representing the display state of the command bar (see col 4, lines 6-49). It would have been obvious to one of an ordinary skill in

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the art at the time the invention was made to provide a third data field containing data representing the display state of the command bar as taught by Gram to the menu control in graphical user interface of Solimene; so that it can be optimizing a menu driven computer user interface for the needs of individual users.

Regarding claim 2, Solimene et al. discloses the display state of the command bar is chosen from the group comprising a toolbar-like display state and a menu-like display state (see col 9, lines 16-67).

Regarding claim 3, Solimene et al. discloses wherein the command bar is a toolbar-like command bar and the plurality of controls include at least one pop-up menu control (see col 10, lines 4-67).

Regarding claim 4, Solimene et al. discloses wherein the plurality of controls include at least one other interactive control in addition to the at least one popup menu control (see col 7, lines 1-28 and col 8, lines 53-67).

Regarding claim 5, Gram discloses wherein the command bar is a menu-like command bar and the plurality of controls include a simple menu item and at least one interactive control (see col 6, lines 10-62).

As claim 6 is analyzed as previously discussed with respect to claims 4 and 5.

Claim 7 differs from claim 1 in that "computer system including a shared program module including at least one function for manipulating the command bars and shared memory for storing data associated with the command bars; in the application program module, calling a function to display a menu-like command bar including an interactive control; in response to an input signal, receiving from the shared program module an indication of the selection of the

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interactive control; determining a function associated with the control; and performing the function which read on Solimene reference (see col 12, lines 10-67 and figures 4-6C).

As claims 8-14 are analyzed as previously discussed with respect to claims 1-5 and 7.

Claims 15 and 18 differ from claim 1 in that “the steps of determining which of the first set of items are eligible to be donated; determining which of the second set of items are eligible to be donated; combining the eligible items from the first set of items with the eligible items from the second set of items; and displaying a merged container including at least one item from the first set of items and at least one item from the second set of items” which read on Gram see col. 6, lines 10-67 and col. 8, lines 1-58.

Regarding claims 16 and 19, Gram discloses comparing the eligible items from the first set of items to the second set of items, and arranging the eligible items from the first set of items in the merged container (see figures 2A-2B).

Regarding claims 17 and 20-21, Gram discloses comparing and arranging the eligible items from the first set of items comprise the steps of determining whether an eligible item from the first set of items is first in the first container; and if the eligible item is first in the first container, placing the eligible item first in the merged container (see co. 16, lines 6-67.

As claim 22 differs from claims 1 and 7 in that “displaying a command bar; displaying an original menu popup including a drag handle, the menu popup being connected to the command bar; receiving from the input device an indication that the drag handle has been dragged away from the command bar; receiving from the input device an indication that the drag handle has been dropped ; and display a removed menu popup in a position corresponding to the drop

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indication which read on Gram reference (see col 3, lines 45-64 and col 4, lines 30-67; figures 2A-3).

Regarding claims 23-25, Gram discloses wherein the removed popup is a floating command bar, a duplicate of the original menu popup, and an alternate representation of the original menu popup (see col 5, lines 1-63).

As claim 26 differs from claims 1, 7 and 22 in that “in response to the drag handle being selected, displaying a removed menu popup in a default position separate from the command bar” which read on Solimene (see col 3, lines 42-67 and col 6, lines 45-65).

As claims 27-29 are analyzed as previously discussed with respect to claims 23-25 above.

Conclusion

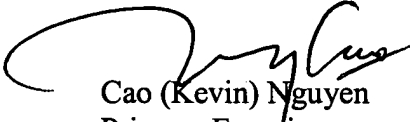
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (see PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cao (Kevin) Nguyen whose telephone number is (571)272-4053. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571)272-4048. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cao (Kevin) Nguyen
Primary Examiner
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01/09/05